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CITY OF SAN LEANDRO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL CHURCH OF THE  
FOURSQUARE GOSPEL,

Plaintiff,

v.

CITY OF SAN LEANDRO, a municipal  
corporation,

Defendant.

FAITH FELLOWSHIP FOURSQUARE  
CHURCH,

Real Party in Interest.

Case No. C07-03605-PJH

DEFENDANT CITY OF SAN  
LEANDRO'S NOTICE OF MOTION  
FOR SUMMARY JUDGMENT OR  
IN THE ALTERNATIVE FOR  
SUMMARY ADJUDICATION OF  
CLAIMS

Hearing:

Date: October 1, 2008

Time: 9:00 a.m.

Courtroom: 3

Honorable Phyllis J. Hamilton

Complaint Filed: 7/12/07

1 TO PLAINTIFF AND ITS ATTORNEY OF RECORD:

2 NOTICE IS HEREBY GIVEN that on October 1, 2008 at 9:00 a.m., or as soon  
3 thereafter as the matter may be heard by the above-entitled Court, located at 450 Golden  
4 Gate Avenue, Courtroom 3, San Francisco, California, Defendant City of San Leandro  
5 (“the City”) will and hereby does move the Court for an order granting its Motion for  
6 Summary Judgment or in the Alternative for Summary Adjudication of Claims as to each  
7 cause of action (First through Ninth) stated in First Amended Complaint for Violation of  
8 Constitutional Rights and the Religious Land Use and Institutionalized Persons Act, 42  
9 U.S.C. § 1983; 42 U.S.C. § 2000cc.

10 This motion for summary judgment or in the alternative summary adjudication is  
11 made on the grounds that there are no genuine issues as to any material fact and that the  
12 moving party is entitled to judgment as a matter of the law because:

13 1. The actions of defendant City have not imposed any substantial burden on  
14 plaintiff’s exercise of religion within the meaning of the Religious Land Use and  
15 Institutionalized Persons Act (“RLUIPA”). Further, the City’s actions challenged by  
16 plaintiff were the least restrictive means available for achieving a compelling government  
17 interest, specifically preservation of land for industrial and commercial development  
18 necessary to provide jobs and sustain the local economy.

19 2. The regulations and actions of defendant City challenged in this lawsuit did  
20 not and do not violate the “Equal Terms” provisions of RLUIPA (42 U.S.C. §  
21 2000cc(b)(1)). The City regulations do not, and the City has not, treated plaintiff or  
22 churches generally differently than other similarly situated assembly or institutional use  
23 within the meaning of RLUIPA.

24 3. The City has not totally excluded nor unreasonably restricted religious  
25 assemblies and institutions within its boundaries in violation of 42 U.S.C. § 2000cc(b)(3).  
26 The City’s regulations provide ample opportunities for the location of churches and other  
27 religious assemblies and institutions within the City.

28 4. The City has not interfered with plaintiff’s exercise of religion in violation of  
the Free Exercise clause of the First Amendment of the United States Constitution.

1           5.       The City has not interfered with plaintiff's freedom of speech in violation of  
2 the Free Speech clause of the First Amendment of the United States Constitution.

3           6.       The City has not interfered with plaintiff's freedom of assembly in violation  
4 of the First Amendment of the United States Constitution.

5           7.       The City has not interfered with plaintiff's freedom of association in  
6 violation of the First Amendment of the United States Constitution'

7           8.       The City has not denied plaintiff equal protection of the law in violation of  
8 the Equal Protection clause of the Fourteenth Amendment of the United States  
9 Constitution.

10          9.       The City has not denied plaintiff due process of law in violation of the Due  
11 Process clause of the Fourteenth Amendment of the United States Constitution.

12           This motion is based upon this Notice of Motion, the accompanying Memorandum  
13 of Points and Authorities; Request for Judicial; the declarations of Debbie Pollart, Lloyd  
14 Zola, Deborah J. Fox, and accompanying exhibits; all pleadings and papers on file in this  
15 action and upon such other matters as may be presented to the Court at the time of the  
16 hearing.

17  
18 Dated: August 27, 2008

MEYERS, NAVE, RIBACK, SILVER & WILSON

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21 By \_\_\_\_\_/s/  
22 DEBORAH J. FOX  
23 Attorneys for Defendant  
24 CITY OF SAN LEANDRO

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